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NEWS RELEASE

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CITY ATTORNEY GETS BIG WIN FOR TAXPAYERS; COURT FINDS PENSION BOARD ACTED ILLEGALLY

San Diego, CA— A major victory for the City Attorney on behalf of taxpayers, as a San Diego Superior Court Judge ruled today that the City does not have to pay $40 million for a controversial pension benefit that was supposed to be cost-neutral to the City. The Purchase of Service Credit program (PSC), allowed City employees to buy up to five years of City service—years that were not actually worked.

Superior Court Judge William R. Nevitt ruled today that it was unlawful for the San Diego City Employees' Retirement System (SDCERS) to charge taxpayers for the shortfall that resulted from the purchase of service credits that were sold at a discounted rate to employees between August 2003 and November 1, 2003.

"Since taking office, I have urged the Mayor and City Council numerous times to restore the cost-neutrality intent of this benefit program," said City Attorney Michael Aguirre. "That it would take a court rather than our elected officials to protect taxpayers' in this matter is a stunning indictment of our current City leadership."

On September 21, 2007 SDCERS confirmed that $146 million of the City's then $1 billion employee pension liability was attributable to the PSC program due to a discounted pricing formula set by past SDCERS trustees. Last December, after two public hearings, the SDCERS Board decided not to seek additional monies from employees who purchased retirement credits below actual value but rather have the System absorb the $146 million liability.

On November 20, 2007, the City Attorney's Office filed a writ of mandate to prevent SDCERS from charging the City for the cost of the program.

<u>Background</u>

The PSC program was originally created by the City to benefit members of the military who left City service to serve in the armed forces. For instance, if a member of the military was called to active duty for two years, that employee could purchase the two years missed upon returning to the City.

(MORE)

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The program was expanded in 1996, as a part of the Manager's Proposal I (MP1) deal between the City and the SDCERS. The new program expanded the PSC program and enabled all City employees to purchase up to five years of service credits – without actually working those years. The program was incorporated into the City of San Diego's Municipal Code.

According to MP I, the program was supposed to be cost neutral for the City and the years of service were supposed to be priced so the employee would pay the full price of the benefit--both the employee and City cost.

However, on March 21, 1997, the SDCERS Board priced the years far below what it would cost the City to provide the benefit. Regardless of an employee's salary, years of service, or age--all factors that should have been considered in structuring the pricing formula--General and Legislative Members were charged 15 percent of current pay per year purchased. The corresponding cost for Safety Members was 26 percent of current pay. Under the pricing formula, a general member earning $100,000 per year could buy a year of pension credits for $15,000. The cost would be $26,000 per year purchased for a safety employee.

The program became wildly popular as City employees sought to cash in on the benefit. It was not long until SDCERS officials realized that the discounted pricing formula was creating a debt to the pension system. However, even after discovering this fact, the SDCERS Board did not revise the pricing formula for several years.

Both the SDCERS actuary and its Assistant Administrator warned the SDCERS Board that the pricing formula needed to be revised upward if the program was to be cost-neutral to the City. Finally, on August 15, 2003 the SDCERS Board voted to raise the per year cost of the PSC program to 27% for General Members, 37% for Safety Members, and 50% for Legislative Members.

However, the SDCERS Board allowed employees who submitted their application before November 1, 2003, to purchase service credits at the lower, former price. As a result, hundreds of additional years of service were purchased at the discounted rate and added to the pension system's debt.

During labor negotiations in 2005, it was agreed that the program would be closed to new City employees hired after 1 July 2005.

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